

**STATE OF MICHIGAN**  
**DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS**  
**OFFICE OF FINANCIAL AND INSURANCE REGULATION**  
**Before the Commissioner of Financial and Insurance Regulation**

**In the matter of**

**XXXXXX**

**Petitioner**

**v**

**File No. 122584-001**

**Guardian Life Insurance Company of  
America**

**Respondent**

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**Issued and entered  
this 22<sup>nd</sup> day of December 2011  
by R. Kevin Clinton  
Commissioner**

**ORDER**

**I. PROCEDURAL BACKGROUND**

On July 28, 2011, XXXXX, authorized representative of XXXXX (Petitioner), filed a request with the Commissioner of Financial and Insurance Regulation for an external review under the Patient's Right to Independent Review Act (PRIRA), MCL 550.1901 *et seq.* After a preliminary review of the material submitted, the Commissioner accepted the case for external review on August 3, 2011.

The Commissioner notified Guardian Life Insurance Company of America (Guardian) of the external review and requested the information used in making its adverse determination. The Commissioner received Guardian's response on August 3, 2011.

Because medical issues are involved, the Commissioner assigned the case to an independent medical review organization which provided its analysis and recommendations on August 23, 2011.

## **II. FACTUAL BACKGROUND**

The Petitioner is covered under a group dental plan that is underwritten by Guardian. His benefits are defined in a plan benefit document that serves as a certificate of coverage (the certificate).

On December 16, 2010, the Petitioner had a crown buildup (code D2950) and a porcelain crown placed (code D2750) on tooth #14. Guardian denied coverage for these services, stating that neither was necessary.

The Petitioner appealed Guardian's denial through its internal grievance process. Guardian upheld its determination and issued its final adverse determination letter dated July 12, 2011.

## **III. ISSUE**

Did Guardian correctly deny coverage for Petitioner's crown buildup and crown?

## **IV. ANALYSIS**

### Petitioner's Argument

In the request for external review, the Petitioner's authorized representative wrote:

Pt. presented w/large existing restoration #14. Pt was experiencing temperature sensitivity & pain on biting. Pt had MO<sup>1</sup> decay under existing restoration which was extremely deep & some fracture lines visible. Due to amount of tooth structure lost after all decay removed (more than 50%), it was necessary to place a core to insure the success of the crown. Please note, an x-ray was submitted to pts. primary ins & they agreed core & crown were necessary. . . .

### Respondent's Argument

In its July 12, 2011, final adverse determination to the Petitioner, Guardian explained its denial:

On 06/27/11 your claim for the crown and build up on tooth #14, was received. Coverage for these services was denied. A licensed dentist has reviewed the clinical information submitted and determined that this tooth appears to have sufficient tooth structure remaining to provide adequate support and retention for an inlay, onlay, or crown. . . .

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1 "Mesial occlusal," i.e., the front side and biting surface of the tooth.

Guardian further explained its denial in an August 2, 2011, letter submitted to the Office of Financial & Insurance Regulation:

The dental plan provides for coverage of crowns only when they are broken down by decay or injury that cannot be restored with routine amalgam or composite filling materials. Crown buildups are eligible for coverage only in conjunction with an eligible crown and only when necessary due to substantial loss of natural tooth structure. Proof of loss must be substantiated through reviews of diagnostic x-rays and other supporting materials; reviews are performed by licensed dentists acting in a consultant capacity.

Based on review of the clinical information provided, in the initial claim review a consultant advised that tooth 14 did not appear to have decay or injury. The consultant also advised that tooth 14 appeared to have sufficient tooth structure remaining to provide adequate support and retention for a crown. In keeping with plan provisions, Guardian denied coverage of the crown and the crown buildup on an explanation of benefits statement issued on 04/11/11.

An appeal was submitted and handled as a Michigan grievance. Based on an appeal review of the additional information provided, a second consultant was unable to establish proof of loss in support of substantial decay or injury for tooth 14. Also, it was advised that tooth 14 appeared to have sufficient tooth structure remaining to provide adequate support and retention for a crown such that the necessity for the crown buildup was not evident. Guardian processed the claim on 07/13/11 reflecting the denial of the crown and crown buildup on tooth 14.

#### Commissioner's Review

Guardian covers dental services that are listed in the certificate and are necessary and appropriate for a given condition. Crowns and crown buildups are covered as major restorative services (p. 106 of the certificate):

Crowns, inlays, onlays, labial veneers, and crown buildups are covered only when needed because of decay or *injury*, and only when the tooth cannot be restored with amalgam or composite filling material. Post and cores are covered only when needed due to decay or *injury*. . . .

\* \* \*

Posts and buildups - only when done in conjunction with a covered unit of crown or bridge and only when necessitated by substantial loss of natural tooth structure.

The question of whether a crown buildup and a crown on tooth #14 were dentally necessary was presented to an independent organization (IRO) for analysis, as required by Section 11(6) of the Patient's Right to Independent Review Act, MCL 550.1911(6). The IRO reviewer is a licensed dentist in active practice, a fellow of the American College of Healthcare Executives, and certified by the American Board of Quality Assurance and Utilization (Diplomate). The IRO reviewer explained:

**Clinical Rationale for the Decision:**

A bitewing radiograph showed tooth #14 with a large MO amalgam restoration. There are neither apparent caries nor loss of tooth structure, save for that previously restored by amalgam, present on the radiograph.

Indications for full crown restorations include large previously placed restorations, cracked tooth syndrome, extensive caries, and broken cusps . . . in that a prosthetic crown must provide support for the tooth structure. (Citations omitted.)

Per the current standards of care, indications for D2950 crown build-up including any pins include one-half of the clinical crown having been destroyed while indications for full coverage crowns such as the provided D2750 crown-porcelain fused to high noble metal include inability of tooth to be restored with amalgam or composite by loss of substantial tooth structure including, but not limited to, a fractured cusp. These conditions were not shown by any physical evidence although the provider's narrative vaguely stated that more than fifty percent (50%) of the tooth structure was lost.

**Recommendation:**

It is the recommendation of this reviewer that the denial of coverage issued by Guardian Life Insurance Company of America for the crown and crown build-up on tooth #14 be upheld.

The Commissioner is not required in all instances to accept the IRO's recommendation. However, the recommendation is afforded deference by the Commissioner. In a decision to uphold or reverse an adverse determination, the Commissioner must cite "the principal reason or reasons why the Commissioner did not follow the assigned independent review organization's recommendation." MCL 550.1911(16)(b). The IRO's analysis is based on extensive experience, expertise and professional judgment. The Commissioner can discern no reason why the IRO's recommendation should be rejected in the present case.

The Commissioner finds that Guardian's denial of coverage for the crown buildup procedure Petitioner underwent and the crown Petitioner received on tooth #14 on December 16, 2010, was consistent with the terms of the certificate of coverage.

**V. ORDER**

The Commissioner upholds Guardian Life Insurance Company's July 12, 2011, final adverse determination. Guardian is not required to cover the crown buildup and crown the Petitioner received on December 16, 2010.

This is a final decision of an administrative agency. Under MCL 550.1915, any person aggrieved by this Order may seek judicial review no later than 60 days from the date of this Order in the circuit court for the county where the covered person resides or in the circuit court of Ingham County. A copy of the petition for judicial review should be sent to the Commissioner of Financial and Insurance Regulation, Health Plans Division, Post Office Box 30220, Lansing, MI 48909-7720.

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R. Kevin Clinton  
Commissioner